

FILED  
15:21:18 52 FEB 25 PM 12:51  
IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT ILLINOIS  
EASTERN DIVISION

DOCKETED  
FEB 25 2004

CLERK  
DISTRICT COURT  
RAMON CODERO and MARIA CODERO,

Plaintiffs,

vs.

CAVALRY SPV I. LLC FKA MIDFIRST BANK,  
BLITT & GAINES, BARRISTERS  
INVESTIGATIONS & FILING SERVICE and  
ROBERT C. SILLER,

Defendants.

No.: 04C 1500

GE COAR

MAGISTRATE JUDGE ASHMAN

COMPLAINT

The Plaintiffs, RAMON CODERO and MARIA CODERO, by and through their undersigned attorneys, SPINA McGUIRE & OKAL, P.C., and as and for their Complaint against Defendants, CAVALRY SPV I. LLC FKA MIDFIRST BANK, BLITT & GAINES, BARRISTERS INVESTIGATIONS & FILING SERVICE, INC. and ROBERT C. SILLER, allege and states as follows:

THE PARTIES

1. Plaintiffs, RAMON CODERO and MARIA CODERO, are residents of the Village of River Grove, County of Cook, State of Illinois.

2. Defendant, BLITT & GAINES, P.C. (hereinafter "BLITT & GAINES"), is a professional corporation engaged in, among other things, the practice of law and collection of debts in Cook county, Illinois.

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3. Defendant, CAVALRY SPV I. LLC FKA MIDFIRST BANK (hereinafter "CALVARY"), is, on information and belief, an Arizona company maintaining its principal place of business in Phoenix, Arizona.

4. Defendant, BARRISTERS INVESTIGATIONS AND FILING SERVICE, INC. (hereinafter "BARRISTERS"), is an Illinois corporation engaged in, among other things, the business of process serving in the County of Cook, State of Illinois.

5. Defendant, ROBERT C. SILLER (hereinafter "SILLER"), is, on information and belief, a resident of the State of Illinois and employed as a process server.

#### **JURISDICTION AND VENUE**

6. This action is brought pursuant to the Fair Debt Collection Practices Act 15 U.S.C. 1692, *et seq.*

7. Venue is proper pursuant to 28 U.S.C. 1391(b), because the claim arises out of incidents occurring in this judicial district.

#### **ALLEGATIONS COMMON TO ALL COUNTS**

8. On January 31, 2002 Defendant CALVARY, filed a complaint against plaintiffs in which it attempts to collect a debt. Said complaint was prepared and prosecuted by Defendant BLITT & GAINES.

9. On or about May 1, 2002 defendants filed affidavits in said action in which their special process server, SILLER who was employed by BARRISTERS, swore, under oath, that he served the plaintiffs with summons and complaint.

10. On July 16, 2002 defendant CALVARY, through its attorneys, BLITT & GAINES, asked for an was granted an *ex parte* judgment against plaintiffs based upon said affidavits.

11. The statements in said affidavits were untrue in that the affiant swore that her served Maria Cordero with summons and described her as an Hispanic female who was 5'1" tall, weighing 130 pounds. In reality, Ms. Cordero is 5'11" tall and of German Irish heritage with blonde hair and blues eyes.

12. On November 15, 2002 said *ex parte* judgment was vacated and, since that date, no judgment has been entered against plaintiffs.

13. On March 26, 2003, with full knowledge of the fact that the *ex parte* judgment was vacated, Defendant CALVARY, through its attorneys BLITT & GAINES, instituted a wage garnishment against plaintiff, Ramon Cordero which resulted in the withholding of his wages.

**COUNT I**  
**VIOLATION OF FAIR DEBT COLLECTION PRACTICE ACT**

Plaintiffs, RAMON CORDERO and MARIA CORDERO, complaining against the Defendants, CAVALRY SPV I. LLC FKA MIDFIRST BANK and BLITT & GAINES, allege as follows:

14. Defendants, CALVARY and BLITT & GAINES, are debt collectors under the terms of the Fair Debt Collection Practice Act.

15. At the time Defendants entered the *ex parte* judgment against plaintiffs,

Defendants, as a result of the false affidavit, had no legal right to do so.

16. At the time Defendants garnished plaintiff's wages, Defendants had no legal right to do so.

17. Defendants' entry of the *ex parte* judgment and wrongful garnishment of plaintiff's wages were direct violations of the Fair Debt Collection Practice Act, 15 U.S.C. 1692 *et seq.*

WHEREFORE, the plaintiffs, RAMON CORDERO and MARIA CORDERO, pray that this Honorable Court enter judgment in his favor and against Defendants, CAVALRY SPV I. LLC FKA MIDFIRST BANK and BLITT & GAINES, P.C., as follows:

- a. For the entry of an order requiring Defendants to immediately return counter-plaintiff's wrongfully garnished wages;
- b. Awarding Counter-Plaintiff compensatory damages resulting from the wrongful garnishment of his wages;
- c. Awarding Counter-Plaintiff all other monetary damages recoverable pursuant to the Fair Debt Collection Practice Act;
- d. Awarding Counter-Plaintiff the costs of this action and reasonable attorneys' fees;
- e. Granting Counter-Plaintiff pre-judgment interest on all of the above sums;
- f. Granting Counter-Plaintiff such other and further relief as this Court may deem appropriate, just and proper.

**COUNT II**  
**ABUSE OF PROCESS**

Plaintiffs, RAMON CORDERO and MARIA CORDERO, complaining against the Defendants, CAVALRY SPV I. LLC FKA MIDFIRST BANK, BLITT & GAINES, BARRISTERS INVESTIGATIONS & FILING SERVICE, INC., and ROBERT C. SILLER, allege as follows:

18. Defendants knew or upon reasonable investigation should have known, that the affidavits filed with the Court upon which the *ex parte* judgment was based were false.

19. Defendants knew that the *ex parte* judgment was vacated at that the time they instituted the wage garnishment proceeding.

20. As a result of Defendants false affidavits and malicious actions, plaintiffs were compelled to expend large sums of money to vacate the judgment and, thereafter, to stop the withholding of wages. Plaintiffs have, also, been hindered and prevented by these actions from transacting their regular and necessary business affairs.

21. Defendants abuse of process was made with wilful and wanton disregard for plaintiffs' rights thereby entitling plaintiffs to an award of punitive damages.

WHEREFORE, the Plaintiffs, RAMON CORDERO and MARIO CORDERO, pray judgment against Defendants, CAVALRY SPV I. LLC FKA MIDFIRST BANK, BLITT & GAINES, BARRISTERS INVESTIGATIONS & FILING SERVICE, INC., and ROBERT C. SILLER, as follows:

a. Awarding counter-plaintiffs compensatory damages for the losses they

incurred as a result of the abuse of process;

- b. Awarding plaintiffs punitive damages;
- c. Awarding plaintiffs their reasonable attorneys fees; and
- d. Granting plaintiffs such other and further relief as this Court may deem appropriate, just and proper.

**COUNT III**  
**CONVERSION**

Plaintiff, RAMON CORDERO, complaining against the Defendants, CAVALRY SPV I. LLC FKA MIDFIRST BANK and BLITT & GAINES, P.C., alleges as follows:

22. As a result of the wrongful wage garnishment proceeding, Plaintiff, RAMON CORDERO'S, wages were deducted by his employer.

23. Defendant then and there converted the wages of plaintiff to their own use, by wrongfully garnishing the wages without legal right.

24. Defendants conduct in converting Plaintiff's wages was made with wilful and wanton disregard for plaintiff's rights thereby entitling plaintiff to an award of punitive damages.

WHEREFORE, the counter-plaintiff, RAMON CORDERO, prays this Honorable Court for the entry of Judgment against Counter-Defendants, CAVALRY SPV I. LLC FKA MIDFIRST BANK, as follows:

- a. Awarding plaintiff compensatory damages for the losses he incurred as a result of the conversion;

- b. Awarding plaintiff punitive damages;
- c. Awarding plaintiff his reasonable attorneys fees; and
- d. Granting plaintiff such other and further relief as this Court may deem appropriate, just and proper.

By:   
\_\_\_\_\_  
One of Plaintiffs' Attorneys

**JURY DEMAND**

Plaintiffs, RAMON CORDERO and MARIA CORDERO, demand trial by jury.

By:   
\_\_\_\_\_  
One of Plaintiffs' Attorneys

John D. Spina  
Spina McGuire & Okal, P.C.  
Attorneys for Counter-plaintiffs  
7610 W. North Avenue  
Elmwood Park, IL 60635  
(708) 453-2800

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

**DOCKETED**

FEB 25 2004

FILED-ED4  
FEB 25 2004**Civil Cover Sheet**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois.

**Plaintiff(s): RAMON CORDERO MARIA  
CORDERO**

**County of Residence: COOK**

**Plaintiff's Atty: JOHN D. SPINA  
SPINA McGUIRE & OKAL, P.C.  
7610 W. NORTH AVE.  
ELMWOOD PARK, IL 60707  
708-453-2800**

**Defendant(s): BLITT & GAINES, P.C., CALVARY SPV  
I, LLC f/k/a MIDFIRST BANK, BARRISTERS  
INVESTIGATIONS & FILING SERVICE, INC., and  
ROBERT C. SILLER**

**County of Residence: COOK**

**Defendant's Atty:**

**04C 1500****II. Basis of Jurisdiction:****3. Federal Question (U.S. not a party)****JUDGE COAR.****III. Citizenship of Principal Parties  
(Diversity Cases Only)****MAGISTRATE JUDGE ASHMAN**

**Plaintiff: - N/A  
Defendant: - N/A**

**IV. Origin :****1. Original Proceeding****V. Nature of Suit:****890 Other Statutory Actions****VI. Cause of Action:****VIOLATION OF FAIR DEBT COLLECTION PRACTICE ACT****VII. Requested in Complaint**

**Class Action:  
Dollar Demand:  
Jury Demand: Yes**

**III. This case IS NOT a refiling of a previously dismissed case.**

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_